

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBERT MORROW,

Plaintiff,

vs.

Case No. 2-04-cv-01269-CRW-LRL

GARY COLOMBO, MICHAEL
JENKINS, DANIEL ELLIS, WALTER
CASTILLO MARTINEZ, RAMON C.
SANTANA, all individual, FRETUS
FIDUCIA, LLC., ZAG, LLC,
ARQUEST INC., DOES 1-30, and
ROES 1-30,

ORDER

Defendants.

At the beginning of the telephone conference with counsel on Tuesday, February 15, 2011, the court will address whether the jury trial, now set for February 22, should be adjourned until the U.S. Court of Appeals for the Ninth Circuit has decided defendant Jenkins' appeal from his conviction and sentence in United States v. Jenkins, no. 2-07-cr-80.

This civil action and that criminal action in which Jenkins is a defendant have a lengthy, tortured track record of trial settings and last-minute continuances granted by former Judge Brian E. Sandoval, then by Judge Robert C. Jones, and more recently by the undersigned visiting judge. The case was twice set for jury trial in 2008, then continued by Judge Sandoval. Then on June 5, 2009, the parties jointly requested that the civil jury trial set for July 13, 2009, be continued until a date following defendants' criminal trial "in an effort to avoid duplicative litigation." See Minutes of Proceedings, Docket No. 231. Judge Sandoval again granted the continuance for that reason.


Judge Jones and the undersigned judge have scheduled and rescheduled both the criminal and civil trials on several more occasions.

For years this case has been closely linked to the criminal proceedings in U.S. v. Jenkins. The guilty plea, judgment of conviction, and sentence in that criminal case are on appeal to the U.S. Court of Appeals for the Ninth Circuit. Until that appeal is decided, this civil jury trial will not be ready for final summary judgment and jury trial proceedings.

From defendant's opposition to summary judgment filed on February 7, it is plain that defendant has not completed filing papers in resistance, and probably the summary judgment motion and trial must await the appeals court ruling. The court is aware that Robert Morrow has been ill. The parties should consider taking his deposition to preserve his testimony so it is available for the jury trial.

IT IS SO ORDERED.

Dated this 9th day of February, 2010.


CHARLES R. WOLLE, JUDGE
U.S. DISTRICT COURT